September 23, 2021

The Honorable Chuck Schumer
Majority Leader
U.S. Senate
322 Hart Senate Office Building
Washington, DC 20510

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
1236 Longworth House Office Building
Washington, DC 20515

The Honorable Mitch McConnell
Minority Leader
U.S. Senate
317 Russell Senate Office Building
Washington, DC 20510

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
2468 Rayburn House Office Building
Washington, DC 20515

Re: House Energy and Commerce Committee Methane Fee Legislation

Dear Speaker Pelosi, Majority Leader Schumer, Minority Leader McConnell, and Minority Leader McCarthy:

GPA Midstream Association respectfully writes to raise concerns with the proposed Environmental Protection Agency Methane Fee in the bill reported out by the House Energy and Commerce Committee.[1] The fee is an unreasonable and burdensome tax on affordable, reliable, domestically produced natural gas and related products. The Committee released and then promptly passed this arbitrary fee without any prior hearing or providing any opportunity for public input. We request that Congress not rush down this path and impose a tax that will harm American consumers and small business.

GPA Midstream has served the U.S. energy industry since 1921. Our members directly employ more than 75,000 American workers that provide services to gather, move, and process vital energy products such as natural gas, natural gas liquids, refined products, and crude oil from production areas to markets, commonly referred to as "midstream activities." The work of our members indirectly creates or impacts another 320,000 jobs and generates over $58 billion in economic value across the U.S. economy.

At GPA Midstream, we are committed to improving air quality and reducing emissions from our operations. This is particularly true for methane, which is a valuable product for our business. Across the oil and natural gas sector, emissions relative to production in five of the seven largest producing basins were down nearly 70% between 2011 and 2019, even as natural gas production

[1] Amendment in the Nature of a Substitute to Committee Print For Subtitle A (Sept. 11, 2021, 10:32 pm).

reached record totals, providing cleaner energy and natural gas products for millions of homes, schools, hospitals, businesses, factories, and utilities. Indeed, the U.S. has reduced its overall energy-related emissions, because natural gas has displaced higher emitting resources.

We have seen these advancements while natural gas and related products have remained affordable and abundant for all Americans. The increased supply of low cost natural gas has saved households and businesses tens of billions of dollars and been a core driver of our economic growth – and critical to our nation's energy security. In the face of this success, a new methane tax is the wrong approach. Imposing a fee based on methane emissions relative to sales of natural gas at multiple steps in the supply chain will raise the cost to produce, gather, process and move these essential products. That in turn would increase the price consumers pay for electricity, as natural gas now accounts for 40% of U.S. electricity generation, as well as the price over 60 million American homeowners pay for natural gas for their household needs. These price increases would place a regressive tax on low and fixed-income Americans already struggling with rising prices to meet basic needs – effectively taking more of their hard-earned income to fund a further federal bureaucracy. It would also unduly burden our nation's manufacturing sector that uses natural gas and related products, a sector that already faces myriad challenges from COVID-19 in today's global marketplace. The administration and Congressional leadership committed to not increasing taxes on lower income Americans and small businesses. Yet, that is precisely what the methane tax would do.

Further, the new methane tax is in reality double taxation, as the new fee would be imposed on top of expanding regulation of methane emissions. The EPA already regulates methane emissions from the oil and natural gas sector, and the administration has announced that it will be proposing revised and expanded federal regulation this month, including regulation of existing oil and gas sources. States are also actively implementing and expanding their own regulations. Adding yet another layer of federal taxation is not only unduly burdensome, but wholly unnecessary in light of the regulations in place and anticipated.

In addition, the Committee's determination to address methane emissions by taxing the oil and natural gas sector is not supported by scientific observations, as it is not the sector driving observed increases in methane emissions. According to a study by the National Oceanic and Atmospheric Administration (NOAA) natural gas production in the United States increased 46 percent between 2006 and 2019, but there was no corresponding increase in total U.S. methane emissions.[2] Last year, oil and natural gas sector methane emissions were down due to COVID, but methane emissions still rose, and NOAA's most recent analysis shows microbial sources have been fueling the rise of atmospheric methane, not fossil fuels.[3] It is illogical to tax oil and gas development, in the face of these data.

At a minimum, these recent results highlight the need to conduct a thorough and open review, before imposing a methane tax. Yet, this new methane tax is being developed behind closed doors as part of a rushed budget reconciliation package. If the administration and Congressional

[2] https://research.noaa.gov/article/ArtMID/587/ArticleID/2453/US-methane-emissions-flat-since-2006-despite-increased-oil-and-gas-activity-study

[3] https://research.noaa.gov/article/ArtMID/587/ArticleID/2769/New-analysis-shows-microbial-sources-fueling-rise-of-atmospheric-methane

leadership truly believe in transparency, it should take a pause and allow for full consideration of this complex new fee, as the methane tax has never been the subject of a congressional hearing. The legislation has never been vetted to test the assumptions underlying the tax, assess the economic hardship it would impose, or evaluate the asserted benefits.

Nor have the possible unintended economic and environmental consequences of the new tax been analyzed. For example, midstream operators typically operate under longer term commercial contracts, which the Committee has not considered. If unable to pass through these costs, midstream facilities may be forced to shut down – leading to job cuts, supply bottlenecks and higher costs for consumers. Further, since 2005, the switch to natural gas has produced two-thirds of the U.S. power sector greenhouse gas (GHG) reductions. By raising the price of natural gas, the methane tax could undermine any purported effort of this legislation to reduce domestic GHG emissions. Moreover, higher natural gas prices could impact LNG exports to countries where imported gas has often replaced more carbon intensive fuels.

In the event Congress nonetheless decides to advance this tax, we urge full consideration of revisions to this approach. First, midstream activities should be taxed at the same rate as the Committee has set for natural gas production. The Committee has proposed a methane fee based on a complex "intensity threshold" formula. The formula would tax the tons of methane emissions reported by a facility under EPA's existing "subpart W" GHG Reporting Program (GHGRP) that exceed a new, specified "percent of the natural gas sent to sale from such facility." The lower the assigned percentage, the greater the share of a segment's emissions that would be taxed.

Yet, without explanation, the Committee would impose a greater tax on natural gas sent for sale by a midstream facility, by setting a fourfold lower intensity threshold on the midstream sector (taxing processing and gathering and boosting methane emissions above 0.05 percent of natural gas for sale) as compared to the production sector (taxing emissions above 0.20 percent of natural gas for sale). There is no reason to treat emissions more stringently from the midstream segment, which is subject to reporting requirements comparable to the production segment under subpart W. [4] Certainly the rushed reconciliation language offers no explanation to the public that must bear this tax, and there is no indication that EPA or other agencies provided technical assistance on the Committee text. Indeed, EPA previously considered and rejected commenters' suggestion that gathering and boosting should be treated differently than production for GHG subpart W reporting. 80 Fed. Reg. 64262, 64270 (Oct. 22, 2015).

Further, second, the fee should provide flexibility to organizations that have more than one facility subject to the proposed tax to have the option to measure the intensity threshold on a company-wide basis across multiple facilities. That would be consistent with other legislative and regulatory approaches to emissions, where reductions at one facility may be used as allowances or credits to offset emissions at another facility, as well as for a number of taxes,

[4] This inequity is compounded by the fact that the proposed bill draws definitions from subpart W, which defines a gathering and boosting "facility" at a basin level that spans a large geographic area. That would apply the fee expansively across the midstream sector, without any evaluation of the effect or fairness of the approach. This underscores why these and other highly technical issues must be explored through the regular order of the legislative process before Congress imposes a burdensome new tax.

such as where capital gains and losses may be offset before the total tax is determined. This offsetting mechanism would not only provide a more equitable approach, it would also incentivize facilities to maximize methane emission reductions where additional reductions are more cost-effective and thereby potentially help to mitigate the substantial economic hardship that would be caused by a methane fee.

Since 2009, EPA's GHGRP has provided the public valuable information on emissions. The Committee-passed bill would significantly modify the GHGRP and impose new regulatory directives on EPA. Advancing a bill that manipulates this effective program and creates new regulatory authority could run afoul of the budget reconciliation process. As written, the potential revenue-raising aspects of the bill are merely incidental to the fundamental policy changes to the GHGRP and EPA's authority. We caution against this approach.

The budget reconciliation process is an ill-fitting mechanism to draft and enact sound energy and tax policy. We urge Congressional leadership to insist that any legislation regarding a methane fee or tax be given a full Committee hearing and openly debated through a transparent, thoughtful, and bipartisan process. GPA Midstream and its members would welcome an opportunity to discuss these issues with you. Thank you for your consideration.

Respectfully submitted,

Matthew Hite

Matt Hite
Vice President of Government Affairs
GPA Midstream Association

cc:
Senate Environment and Public Works Committee Chairman Tom Carper
Senate Environment and Public Works Committee Ranking Member Shelley Moore Capito
Senate Budget Committee Chairman Bernie Sanders
Senate Budget Committee Ranking Member Lindsey Graham
House Energy and Commerce Committee Chairman Frank Pallone
House Energy and Commerce Ranking Member Cathy McMorris Rodgers
House Budget Committee Chairman John Yarmuth
House Budget Committee Ranking Member Jason Smith